

FILED  
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U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

# Declaration of Harold Barker

I am creating this document in support Michael Miroyan and his hiring of Michael Berger. My understanding is his commercially zoned property in Waikoloa Village has at least \$3 million in cash equity and more realistically like \$5 million in cash equity.

I support him in his endeavor because he is an honest guy, he has plenty of equity, he's been a friend of mine for about 15 years, and helped me out plenty of times, and I want to get paid back. Therefore, I want to make it very clear to you, Mr. Berger, who seems to have created confusion about this situation, that you are not my attorney. I never hired you, Mr. Berger, to be my attorney.

Michael Miroyan borrowed \$10,000 from me on April 14, 2022, the day I wired money to your firm, Mr. Berger, on behalf of Michael Miroyan. Michael Miroyan and I signed Mike's Promissory note between us, before I wired you, or your firm, the money on behalf of Michael Miroyan.

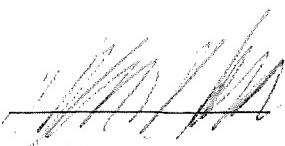
I have had no direct contact with Mr. Michael Berger, I was only present at the Wells Fargo bank when Michael Miroyan and I were at the bank setting up the transfer.

Michael Miroyan, hired Mr. Berger To handle his Chapter 11 bankruptcy. I've only heard about Mr. Berger's work, or lack thereof from Michael Miroyan. The Chapter 11 bankruptcy is Mike Miroyan's problem now.

I am taking my time right now, to document my declaration that I never hired Michael Berger, or have had any direct dealings with him. I was simply helping Michael Miroyan, because Michael Berger had to have the money within hours of me finding out Michael Miroyan's situation. It was our understanding that the wire transfer of the money was the only way we could meet the deadline of Mr. Berger.

I am spending my time doing this now to state that this was a personal loan. The fact the I facilitated the payment for Michael Miroyan for the hiring of Michael Berger for his bankruptcy case should not detract from the work that Mr. Berger is supposed to be doing for Mr. Miroyan.

I, Harold W. Barker, do hereby state that the above is true and correct to the best of my understanding and memory.



Harold W. Barker

Date: 6/5/2022

## Vacant Land Broker Price Opinion (BPO) Comparisons Pages

|                   |                                |                   |  |
|-------------------|--------------------------------|-------------------|--|
| Client:           | Michael Miroyan                | Client File #:    |  |
| Subject Property: | 3-6-8-2-53 14.6 acres Waikoloa | Appraisal File #: |  |

## SITE VALUATION

| ITEM                         | SUBJECT  | COMPARABLE SALE NO. 1     | COMPARABLE SALE NO. 2              | COMPARABLE SALE NO. 3 |
|------------------------------|--|---------------------------|------------------------------------|-----------------------|
| Address                      | Waikoloa Rd and Paniloa Ave<br>Corner location | Waikoloa Rd<br>3-6-8-3-15 | 68-1850 Pua Mella St<br>3-6-8-3-28 |                       |
| Proximity to Subject         |  |                           |                                    |                       |
| Sale Price                   |  | \$                        | \$                                 | \$                    |
| Price                        |  | \$                        | \$                                 | \$                    |
| Data Source/<br>Verification | County Tax<br>Records                          | County Tax Records        |                                    |                       |
| Sale Date                    |  |                           |                                    |                       |
| Location                     | Waikoloa Rd                                    | Waikoloa Rd               | 68-1850 Pua Mella St               |                       |
| Site Size                    | 14.6 Acres                                     | 32.66                     | (2,000,000<br>1 million)           |                       |
| Site View                    | Ocean and Mountain                             |                           | Mountain                           | 200,000               |
| Site Improvements            | None   | None                      | None                               | 0                     |
| Zoning                       | C 20   | Commercial                | Apartment                          | 1,000,000             |
|                              |  |                           |                                    |                       |
|                              |  |                           |                                    |                       |
|                              |  |                           |                                    |                       |
|                              |  |                           |                                    |                       |
| Net Adjustment               |  | 2,000,000                 | 1,200,000                          |                       |
| Indicated Value              |  | \$ 11,500,000             | \$ 2,200,000                       | \$                    |
| Net Adjustment               |  | 18 %                      | 55 %                               | %                     |
| Gross Adjustment             |  | 18 %                      | 55 %                               | %                     |

## Site Valuation Comments:

Subject is superior location on the corner of Paniloa Ave. and Waikoloa Rd. Paniloa is the main Entrance into Waikoloa Village. Waikoloa Rd. is the main north/south corridor from west Hawaii to Kamuela and to the eastern side of the Island.

3-6-8-3-15 also known as Willow Plaza: Subject 1 is a commercial zoned vacant land on Waikoloa Rd. Restricted to commercial use under zoning where the subject property may be developed as residential or commercial under the current zoning.

3-6-8-3-28 4.6 acre apartment land: Subject 2 is zoned apartment. Rumor has it that there were also 30 affordable unit credits included with the sale which makes sense since the property sold 10/13/2005 for \$3,900,000. 1 Million Dollars seems to be underpriced so a barter of affordable credits seems credible which would make its value closer to \$2,500,000 for 4.6 acres zoned apartment.

| ITEM                         | SUBJECT | COMPARABLE SALE NO. 4 | COMPARABLE SALE NO. 5 | COMPARABLE SALE NO. 6 |
|------------------------------|---------|-----------------------|-----------------------|-----------------------|
| Address                      |         |                       |                       |                       |
| Proximity to Subject         |         |                       |                       |                       |
| Sale Price                   |         | \$                    | \$                    | \$                    |
| Price /                      |         | \$                    | \$                    | \$                    |
| Data Source/<br>Verification |         |                       |                       |                       |
| Sale Date                    |         |                       |                       |                       |
| Location                     |         |                       |                       |                       |
| Site Size                    |         |                       |                       |                       |
| Site View                    |         |                       |                       |                       |
| Site Improvements            |         |                       |                       |                       |
|                              |         |                       |                       |                       |
|                              |         |                       |                       |                       |
|                              |         |                       |                       |                       |
|                              |         |                       |                       |                       |
| Net Adjustment               |         |                       |                       |                       |
| Indicated Value              |         | \$                    | \$                    | \$                    |
| Net Adjustment               |         | %                     | %                     | %                     |
| Gross Adjustment             |         | %                     | %                     | %                     |

## Site Valuation Comments:

There are limited comparable sales for the subject property due to the economic down turn which started in 2007.

The subject property is superior to any other lands in the immediate area due to the corner location, CV zoning and potential views. My opinion is highest and best use is a mixed use development consisting mainly of residential apartments or condominiums with a convenience store and gas station on the corner. However just as a residential multifamily development with the CV zoning creates a potential for several hundred units. As per a potential map provided by the owner with 244 units with the ordinance extension until 2023 my opinion of value is around \$6 Million possibly more according to an approved layout and confirming onsite and offsite required improvements and cost. Rentals and moderate priced housing is badly needed in West Hawaii and especially in the Waikoloa area.

This parcel if combined with the owners approximately 6 acre parcel adjacent to the subject on the north side would create many needed jobs and new housing for the area within walking distance to shopping, and Waikoloa Village amenities. As a multifamily site the 6 acre property aka 3-6-8-2-21 should be valued at around a million dollars.

|                   |  |                   |  |
|-------------------|--|-------------------|--|
| Client:           |  | Client File #:    |  |
| Subject Property: |  | Appraisal File #: |  |

**SITE VALUATION**

| ITEM                         | SUBJECT | COMPARABLE SALE NO. 7 | COMPARABLE SALE NO. 8 | COMPARABLE SALE NO. 9 |
|------------------------------|---------|-----------------------|-----------------------|-----------------------|
| Address                      |         |                       |                       |                       |
| Proximity to Subject         |         |                       |                       |                       |
| Sale Price                   |         | \$                    | \$                    | \$                    |
| Price /                      |         | \$                    | \$                    | \$                    |
| Data Source/<br>Verification |         |                       |                       |                       |
| Sale Date                    |         |                       |                       |                       |
| Location                     |         |                       |                       |                       |
| Site Size                    |         |                       |                       |                       |
| Site View                    |         |                       |                       |                       |
| Site Improvements            |         |                       |                       |                       |
|                              |         |                       |                       |                       |
|                              |         |                       |                       |                       |
|                              |         |                       |                       |                       |
|                              |         |                       |                       |                       |
| Net Adjustment               |         |                       |                       |                       |
| Indicated Value              |         | \$                    | \$                    | \$                    |
| Net Adjustment               |         | %                     | %                     | %                     |
| Gross Adjustment             |         | %                     | %                     | %                     |

**Site Valuation Comments:**

My opinion of Market Value for 3-6-8-2-53 consisting of approximately 14.6 acres of vacant land zoned CV 20 is approximately \$6,000,000.00  
(Six Million Dollars)

My opinion of 3-6-8-2-21 consisting of 5.95 acres zoned Agriculture is approximately \$1,000,000.00. (1 Million Dollars) This value would be higher with Apartment Zoning or Multi Family Zoning.

This is a marketing price opinion only. I am not licensed as an appraiser and this price opinion is not to be used as an appraisal. I suggest the owner and any other interested persons or entities consult with a Hawaii State Licensed Appraiser for further information and verification of this information and any other historical information of interest.

John Miller RS70700

Macarthur Sotheby's International Realty Inc.

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Kailua Kona, HI. 96740

12/27/2018